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BY ECF

**MEMORANDUM ENDORSED**

December 15, 2020

Hon. Gregory H. Woods  
United States District Judge  
Southern District of New York  
40 Centre Street  
New York, NY 10007

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Re: *United States v. John Depeyster* 19 cr 253 (GHW)

Dear Judge Woods:

I write this letter to respectfully request that Mr. Depeyster's voluntary surrender date be continued to June, 2021. As Your Honor may recall, Mr. Depeyster was sentenced on August 24, 2020 with a surrender date of January 4, 2020 in large part due to COVID. The vaccine became available yesterday but given the limited supply it does not appear that Mr. Depeyster will be eligible for it at present (although he does suffer from more than 30 kg/m<sup>2</sup> obesity). He also continues to take care of his family during the pandemic.

According to the *New York Times*, federal officials have suggested that corrections staff receive high priority for coronavirus vaccine, but not the millions of vulnerable inmates held in United States facilities.  
<https://www.nytimes.com/2020/11/30/health/coronavirus-vaccine-prisons.html>. A few states have indicated they will vaccinate prisoners as a first stage but the majority have it as later stages or no plan at all, like apparently New York.  
<https://www.prisonpolicy.org/blog/2020/12/08/covid-vaccination-plans/>

In addition, historically prisoners have reported to MCC, MDC, Ft. Dix or Elkton facilities or taken there from pretrial confinement. Counsel's last five clients have gone to these four facilities which are holding cells waiting final designation. Unfortunately, these facilities are currently hot spots for COVID and have systemic problems. As set forth in the letters to the head of the Bureau of Prisons signed by a number of members of Congress, FCI Fort Dix, Fairton and Elkton facilities and MDC are problematic for transferring prisoners. *See BOP letters* attached as Exhibit A.

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As a result, Mr. Depeyster would respectfully request that he be permitted to surrender in June, 2021 when the vaccine is expected to be available generally, including for his family. Given the need to reduce prison populations during the pandemic and the fact that he will eventually serve the sentence just later and at a safer time there is no prejudice.

The government, by AUSA Jarrod Schaeffer, has no objection to this request.

For other good and just cause.

Respectfully,

*/s/ Inga L. Parsons*

Inga L. Parsons

Cc: All counsel of record via ECF  
Mr. Depeyster by email

Application denied without prejudice. Counsel filed a notice of appeal in this case on September 3, 2020. See Dkt. No. 112. "The filing of a notice of appeal is an event of jurisdictional significance," which "confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal." *Griggs v. Provident Consumer Disc. Co.*, 459 U.S. 56, 58 (1982). The Court is not aware of the issues involved in the appeal, but the Court notes that the surrender date is a component of the Court's judgment entered in this case. There are exceptions to the general rule that a notice of appeal deprives the district court of jurisdiction, but the parties have not suggested that one applies. Any renewed application should provide legal support for the Court's authority to grant the requested relief notwithstanding the pending appeal. Given the pendency of an appeal in this matter, the Court asks requests further comment on the argument presented regarding a lack of prejudice because of the "fact that he will eventually serve the sentence [sic] just later" to ensure that the statement is consistent with counsel's duty of candor to the Court.

The Clerk of Court is directed to terminate the motion pending at Dkt. No. 113.

SO ORDERED  
December 15, 2020

  
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GREGORY H. WOODS  
United States District Judge